

## REMARKS

Prior art rejections will be addressed first, with response to other matters following. Paragraph numbering of the Office Action is used.

**Paragraph 8**

Claims 81-88 and 132-145 stand rejected under Section 102(e) as being anticipated by Patent No. 6,625,511 ("Suzuki").

## THE SUZUKI PATENT

The teaching of Suzuki is clearly presented in the Abstract and may be addressed in three phases for ease of consideration.

PHASE (A) - gather data for a "product evaluating database":

(i) "creating and storing in advance a workshop evaluating database"

This workshop database provides capability for collecting workshop data.

(ii) "extracting from [that] database those failure occurrence ratio indexes which correspond to workshop facility levels"

Failure indexes relevant to this particular workshop are extracted.

(iii) "evaluating/estimating failure occurrence likelihood for standard manufacturing works in the manufacturing workshop" (Abstract)

Likelihood of failure for standard manufacturing tasks in this workshop are estimated.

PHASE (B) The “product evaluating database” is stored for use:

- (i) “the failure occurrence likelihood being then stored as workshop index in a product evaluating database” (Abstract)

This “product evaluating database” includes a “workshop index” representing likelihood of failure for standard tasks performed in this workshop.

PHASE (C) For “products to be manufactured,” a defect level for this workshop is estimated:

- (i) “using the workshop indexes” as stored in Phase (B), for evaluating/estimating “a work-related defective ratio for the products to be manufactured” in this manufacturing workshop (Abstract)

In Phase (C), the “product evaluating database” stored in Phase (B) above is used to estimate product defect levels which would be experienced if specific future products were actually manufactured in this workshop.

In the Office Action reference is made to Fig. 4 and specific portions of the Suzuki text, which are identified as follows:

“Col. 12, lines 14-60” This relates to the Suzuki activities in Phase (A) above, whereby “a manufacturing **workshop evaluating database** program 4a1” is stored in storage area 4a and display means 2 aids in inputting of “**results of evaluation performed for manufacturing workshops** (diagnosis data, improvement advices and others) and results of evaluation (fraction defective of products or articles, failure phenomena, manufacturing cost and others) concerning a product structure (objective for

manufacturing work).” (Col. 12, lines 31-45.)

“Col. 14, lines 5-17” This relates to the Suzuki activities in Phase (B) above, whereby “evaluation category” information for various aspects of production conditions is used in the evaluation and storage of a “workshop index” in a “product evaluating database”, as referred to in the Abstract.

“Col. 12, line 60 - col. 13, line 13” This relates to the Suzuki activities in PHASE (C) above, whereby by use of “the evaluation information concerning the fractions defective of the products or articles as determined by the product evaluating unit 10b, it is possible to estimate the fraction defective in more concrete terms for a given product manufactured at a given manufacturing workshop.” (Col. 13, lines 9-13.)

In this manner, via Phases (A) and (B) identified above Suzuki develops a “product evaluating database” including “failure occurrence likelihood” data relating to qualities and deficiencies in work tasks performed in a workshop. Then, in Phase (C) Suzuki uses that database to estimate defect levels which would occur for specific products, if those products were manufactured in that workshop.

As will be shown, Suzuki uses different elements to implement a different invention, as compared to applicant.

#### THE INVENTION

As stated in the Abstract: “A resource management system identifies, tracks and corrects deficiencies in resources” and other aspects of “human, operating and manufacturing resources.”

The nature of “deficiencies” in the present context is addressed in the specification beginning at line 4 on page 13. Types of deficiencies, including inherent deficiencies and those which arise via interactions between resources, are discussed.

In the particular context of claim 81, a resource management system is implemented through the **combination** of:

- (a) A deficiency database which includes information regarding deficiencies of resources.
- (b) A resource database which includes information about resources used in an enterprise.
- (c) A processor which uses deficiency and resource information and is arranged to provide information regarding a characteristic of a resource based on one or more deficiencies related to a resource used in the enterprise.

Other claims cover other elements of the invention. For example, claim 83 addresses provision and use of information regarding deficiencies relating to **interactions** among resources.

#### ANTICIPATION

As stated in the Manual of Patent Examining Procedure (MPEP):

A claim is anticipated only if **each and every element as set forth in the claim** is found, either expressly or inherently described, in a single prior art reference.

Further:

The **identical invention** must be shown in as complete detail as is contained in the . . . claim. (MPEP section 2131, citing authorities; emphasis added.)

As will be shown, in the present case Suzuki fails to disclose the “identical invention” and all elements of applicant’s claims are not either expressly or inherently described in Suzuki.

#### CLAIM 81

As more fully set forth therein, claim 81 is directed to a resource management system comprising a combination of elements:

- (a) a deficiency database,
- (b) a resource database, and
- (c) a processor coupled to those databases.

The claim description of element (c) has now been amended to more clearly point out the invention by stating that the processor

- is arranged to use “deficiency information” and “resource information”
- “to provide information regarding a characteristic of a resource based on one or more deficiencies related to at least one resource used in the enterprise”

In contrast, as more fully set out above under the heading “THE SUZUKI PATENT”, in Phase (A):

- (i) Suzuki starts with a “workshop evaluating database”

- (ii) extracts from that database “failure occurrence ratio indexes” which correspond to workshop facility levels; and
- (iii) proceeds with “evaluating/estimating failure occurrence likelihood” for standard manufacturing tasks in the workshop.

In Phase (B) of the Suzuki approach,

- (i) the “product evaluating database”, including the “workshop index” for likelihood of failure for standard tasks in the workshop, is stored for use.

In Phase (C) of the Suzuki approach,

- (i) the “product evaluating database” is used to estimate defect levels which would be experienced for future products to be manufactured in the workshop.

Thus, in the prior art reference Suzuki, first a “product evaluating database” is produced, then a processor uses defect indexes stored in that database to estimate defect levels applicable to manufacture of **new products** in a workshop.

For anticipation, Suzuki must teach “each and every element” as set forth in claim 81. Considerations relevant to the claim elements include the following.

As to the “deficiency database” element of claim 81, it is assumed, only for the present discussion, that the Suzuki “product evaluating database” is somehow analogous (although it is not the same element in the identical invention).

As to the “resource database” element of claim 81, there is no teaching by Suzuki that the estimating of product defect levels should employ any “information about

resources” in combination with information from the Suzuki “product evaluating database.” While Suzuki previously employs other databases, they are employed as working tools in the preparation of the “product evaluating database” which is what is used for product defect level estimating. The relevant consideration is not how many databases a reference discloses, but whether the same elements are employed by a reference in the context of teaching the “identical invention.” In the context of claim 81, Suzuki fails to use a source of “resource information”, such as applicant’s “resource database” element.

Thus, even if it were possible by hindsight to suggest that the preparation by Suzuki of the “product evaluating database” involves initially some aspect of a resource database, that could not change the fact that Suzuki does not disclose or suggest use of resource information **subsequent to** the product evaluating database having been prepared. Retroactive reconstruction of the Suzuki disclosure in view of applicant’s invention can not be relied upon to anticipate applicant’s invention as claimed.

As to the “processor” element of claim 81, it uses deficiency information and resource information from the databases of the claimed combination to provide information relating to a resource, as set forth in the claim. The Suzuki processor, arranged to provide estimates of manufacturing defects relating to **products**, is clearly not a processor arranged to provide deficiency based information relating to a **resource** used in an enterprise, as set out in claim 81. A prior art processor arranged to use the unique Suzuki database to provide product defect ratios fails to set forth applicant’s processor

using deficiency and resource information as claimed.

Thus, Suzuki is inadequate to anticipate because it fails to expressly or inherently describe “each and every element as set forth in the claim.”

As noted above, in addition to teaching each and every element, the MPEP states that for a prior art reference to anticipate the “identical invention must be shown.” On an overview basis, claim 81 sets forth a three-element combination. Two databases are provided and a processor uses information from those databases to provide information regarding a characteristic of **a resource** based on one or more deficiencies related to a resource used in an enterprise. Suzuki discloses a different invention, whereby a processor uses information from a “product evaluating database” to estimate the level of defects which will occur in manufacture of **a product**. Suzuki is inadequate to anticipate because Suzuki does not teach applicant’s invention as claimed. While it is known that databases of different types of information can be stored in the same or separate physical databases, Suzuki fails to disclose a processor using deficiency and resource information. Thus, Suzuki does not disclose or suggest the “identical invention.”

In view of the absence of Suzuki teaching of “each and every element” and the “identical invention”, reconsideration of the rejection and allowance of claim 81, as amended, are respectfully requested.

#### DEPENDENT CLAIMS 82-88

Claims 82-88, which would become allowable with allowance of parent claim 81, include additional distinguishing limitations.



For example, claim 83 sets forth a deficiency database which includes information regarding “deficiencies relating to **interactions** among resources” (emphasis added). As amended, claim 83 sets forth that the processor is arranged to provide information “based also on said information relating to interactions.” Suzuki fails to expressly or inherently disclose either a database with resource interaction data or a processor using such data.

As a further example, Suzuki fails to teach a database with inclusion of “information on cost impacts of deficiencies” as set forth in claim 88.

Reconsideration and allowance of claims 82-88 are requested.

#### CLAIM 132

To avoid repetition, the discussion above regarding the inadequacy of Suzuki to anticipate the invention of claim 81 is incorporated here with reference to claim 132.

Thus, Suzuki fails to teach the identical process to claim 132 and fails to teach the use of deficiency and resource information, as set forth, for deriving information regarding “a characteristic of a resource based on one or more deficiencies related to at least one resource used in the enterprise.” In providing a “product evaluating database” to derive estimates of manufacturing defects, Suzuki fails to teach each and every element of claim 132 and, with different means, objectives and results, fails to teach the “identical invention” as claimed.

Reconsideration of the rejection and allowance of claim 132, as amended, are respectfully requested.

## DEPENDENT CLAIMS 133-145

Claims 133-145, which would become allowable with allowance of parent claim 132, include additional distinguishing limitations.

For example, claim 134 sets forth the providing of a deficiency database which includes information regarding “deficiencies relating to **interactions** among resources” (emphasis added). As amended, claim 134 sets forth the deriving of information “based also on said information relating to interactions.” Suzuki fails to expressly or inherently teach the providing of such a database or the deriving of information based on information regarding deficiencies relating to such interactions.

As further examples, claims 136, 137, 138, 139, 140 and 141 set forth respective limitations relating to:

- providing a deficiency database including deficiency cost impact information,
- deriving a determination regarding resource use effects on an operating objective,
- deriving a resource life estimate,
- deriving failure mode information,
- deriving information on a deficiency related to a failure mode; and
- deriving a life cycle cost estimate.

It has not been shown that Suzuki provides teaching regarding any of these limitations.

As additional examples:

- claim 142 sets forth limitations relating to deriving an indication of a preferred **combination** of resources;

- claim 143 sets forth limitations relating to deriving an indication of deficiencies relating to a **combination** of resources;
- claim 144 sets forth limitations relating to deriving information on a **modification** relative to resource compatibility; and
- claim 145 sets forth limitations relating to deriving information on possible **causes of failure**.

It has not been shown that Suzuki provides teaching regarding any of these limitations

Reconsideration and allowance of claims 133-145 are requested.

#### OTHER MATTERS

##### **Paragraph 4**

The restriction requirement having been made final, nonelected claims 89-131 and 146-154 have been canceled.

##### **Paragraph 6**

In view of the Examiner's holding that the "subject matter claimed in the instant application is fully disclosed" in applicant's Patent No. 6,505,145 and is covered by claims thereof directed to common subject matter, a Terminal Disclaimer is enclosed.

Entry of the Terminal Disclosure and reconsideration of the rejection based on double patenting are requested.

##### **Paragraph 9**

The prior art made of record and not relied upon has been briefly reviewed and is not considered to disclose or suggest applicant's invention.

SUMMARY

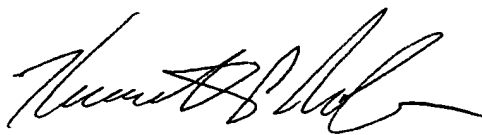
The nonelected claims have been canceled and a Terminal Disclaimer is provided.

For the reasons stated above, Suzuki is inadequate to anticipate in view of the failure to teach each and every claim element and the failure to disclose the identical invention.

Entry of this amendment, reconsideration of all objections and rejections, and allowance of claim 81-88 and 132-145, as amended, are requested.

This application is considered to be in condition for allowance, which action is respectfully solicited.

Respectfully submitted,



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